
IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

DOUGLAS MOOMEY,

Plaintiff,

v.

**EXPRESS MESSENGER SYSTEMS,
INC., dba ONTRAC, *et. al.*,**

Defendants.

**ORDER AFFIRMING & ADOPTING
REPORT & RECOMMENDATION**

Case No. 2:21-CV-575-DAK-JCB

Judge Dale A. Kimball

Magistrate Judge Jared C. Bennett

This case was assigned to United States District Court Judge Dale A. Kimball, who then referred the case to United States Magistrate Judge Jared C. Bennett under 28 U.S.C. § 636(b)(1)(B). On May 9, 2022, Magistrate Judge Bennett issued a Report and Recommendation [ECF No. 39], recommending that the court grant Defendant OnTrac's motion to dismiss and dismiss all nine of Plaintiff's causes of action without prejudice, deny Plaintiff's two motions to amend his Complaint but give Plaintiff thirty days from the district court's ruling to refile a motion to amend his Complaint that complies with DUCivR 15-1 and the legal principles set forth in the Report and Recommendation.

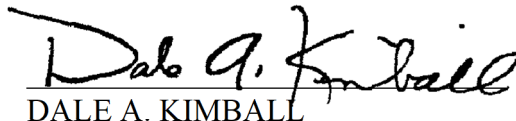
The Report and Recommendation notified Plaintiff that any objection to the Report and Recommendation must be filed within fourteen days of receiving it. As of the date of this Order, Plaintiff has not submitted an objection, which is twenty-three days past the issuance of the Report and Recommendation. The court, therefore, assumes the deadline for submitting an

objection has passed. The court notes, however, that Plaintiff has filed a new Motion to Amend his Complaint in an apparent attempt to comply with the Report and Recommendation.

A Magistrate Judge's Report and Recommendation is subject to *de novo* review by this court. *See* 28 U.S.C. § 636(b)(1)(B); *see also* Fed. R. Civ. P. 72(b). The court has reviewed the Report and Recommendation and the record *de novo* and agrees with Magistrate Judge Bennett's recommendations in their entirety. Therefore, the court adopts and affirms Magistrate Judge Bennett's Report and Recommendation as the order of the court. Because Plaintiff appears to have already attempted to comply with the Report and Recommendation by filing a new Motion to Amend, the court leaves the determination of the sufficiency of the new Motion to Amend to the Magistrate Judge.

DATED this 1st day of June, 2022.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Dale A. Kimball", is written over a horizontal line.

DALE A. KIMBALL
United States District Judge